

# United States District Court District of Massachusetts

PETER J. DONOVAN,  
Plaintiff,

v.

CIVIL ACTION NO. 13-12210-IT

WILLIAM KELLEY,  
as an individual and in  
his official capacity as Legal Counsel  
of the Massachusetts Alcoholic  
Beverages Control Commission;

CAROLINE GUARINO-WILICHOSKI,  
as an individual and in  
her official capacity as Investigator  
of the Massachusetts Alcoholic  
Beverages Control Commission;

KIM GAINSBORO,  
as an individual and in  
her official capacity as Chairman  
of the Massachusetts Alcoholic  
Beverages Control Commission;

ROBERT CRONIN,  
as an individual and in  
his official capacity as Commissioner  
of the Massachusetts Alcoholic  
Beverages Control Commission;

SUSAN CORCORAN,  
as an individual and in  
her official capacity as Commissioner  
of the Massachusetts Alcoholic  
Beverages Control Commission,  
Defendants.

***REPORT AND  
RECOMMENDATION ON MOTION  
TO DISMISS BY DEFENDANTS (#10)  
AND PLAINTIFF'S MOTION  
FOR PRELIMINARY INJUNCTION  
AGAINST ABCC AND IT EMPLOYEES (#31)***

COLLINGS, U.S.M.J.

In view of the recommendation contained in the Report and Recommendation (#40) on the defendants' (later filed) motion to dismiss (#27), I RECOMMEND that the (earlier filed) Motion to Dismiss by Defendants (#10) and Plaintiff's Motion for Preliminary Injunction (#31) be found to be MOOT.

***Review by the District Judge***

The parties are hereby advised that any party who objects to this recommendation must file a specific written objection thereto with the Clerk of this Court within 14 days of the party's receipt of this Report and Recommendation. The written objections must specifically identify the portion of the recommendation, or report to which objection is made and the basis for

such objections. The parties are further advised that the United States Court of Appeals for this Circuit has repeatedly indicated that failure to comply with Rule 72(b), Fed. R. Civ. P., shall preclude further appellate review. *See Keating v. Secretary of Health and Human Services*, 848 F.2d 271 (1<sup>st</sup> Cir. 1988); *United States v. Emiliano Valencia-Copete*, 792 F.2d 4 (1<sup>st</sup> Cir. 1986); *Scott v. Schweiker*, 702 F.2d 13, 14 (1<sup>st</sup> Cir. 1983); *United States v. Vega*, 678 F.2d 376, 378-379 (1<sup>st</sup> Cir., 1982); *Park Motor Mart, Inc. v. Ford Motor Co.*, 616 F.2d 603 (1<sup>st</sup> Cir. 1980); *see also Thomas v. Arn*, 474 U.S. 140 (1985).

/s/ Robert B. Collings

ROBERT B. COLLINGS  
United States Magistrate Judge

June 30, 2014.